

light on what the regime does to its own people and to others.

I thank Senator PORTMAN for his leadership on this.

Mr. PORTMAN. Mr. President, as in legislative session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration and that the Senate now proceed to S. Res. 623.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 623) commemorating Otto Frederick Warmbier and condemning the North Korean regime for their continued human rights abuses.

There being no objection, the committee was discharged and the Senate proceeded to consider the resolution.

Mr. PORTMAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The resolution (S. Res. 623) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of June 16, 2020, under "Submitted Resolutions.")

EXECUTIVE CALENDAR—Continued

The PRESIDING OFFICER. The Senator from Texas.

DACA

Mr. CRUZ. Mr. President, today's decision from the U.S. Supreme Court in *Department of Homeland Security v. Regents of the University of California* is disgraceful.

Judging is not a game. It is not supposed to be a game. But, sadly, over recent years, more and more Chief Justice Roberts has been playing games with the Court to achieve the policy outcomes he desires.

This case concerned President Obama's Executive amnesty—amnesty that President Obama decreed directly contrary to Federal law. He did so with no legal authority. He did so in open defiance of Federal statutes. Of course, he was celebrated in the press for doing so.

Obama's Executive amnesty was illegal the day it was issued and not one single Justice of the nine Supreme Court Justices disputed that—not a one.

Chief Justice Roberts wrote the majority opinion, joined by the four liberal Justices on the Court. This is becoming a pattern.

The majority assumes that DACA—Obama's Executive amnesty—is illegal, and then bizarrely holds that the Trump administration can't stop implementing a policy that is illegal.

Think about that for a second.

In fact, it is even worse. The majority explicitly concedes, of course, the

administration can stop an illegal policy. "All parties agree"—that is a quote—"all parties agree that DHS may rescind DACA."

OK. Easy. Everyone agrees. DHS can rescind DACA. Right?

Not so fast. A clever little twist. The majority says: Do you know what? The agency's legal explanation wasn't detailed enough. Yes, you have the authority to do it. Everyone agrees. There is no argument that you don't have the authority to do it, but we are checking your homework and, you know, the memo you wrote explaining it just didn't have all the detail we need. Just a touch more, so start over.

What is interesting is that is exactly the sleight of hand that Chief Justice Roberts did almost exactly a year ago today in another case where the Chief joined with the four liberals from the Court and struck down another one of the Trump administration's policies.

In that case a year ago, the Commerce Department, which is charged by the Constitution with conducting a census every 10 years—the Commerce Department wanted to ask a common-sense question in the course of the census: Are you a citizen of the United States? That is a question that has been asked in nearly every census since 1820. It ain't that complicated, asking someone in the course of a census: Are you a citizen?

But in today's politically fraught world, the Democratic Party has decided they are the party of illegal immigration, as is the press. And so what did John Roberts do a year ago? Same thing. He wrote an opinion saying: Of course, the Commerce Department has the authority in the census to ask if you are a citizen. Of course. We have done it since 1820.

For those who are math impaired, that is 200 years ago.

Steadily since then, every 10 years, over and over and over again, but no, no, no, no—John Roberts, little twist of hand.

Do you know what? The Commerce Department didn't explain their reasoning just clearly enough. We looked at their memo announcing it, announcing that they were making a policy decision that they have unquestioned legal authority to do, that the Bill Clinton administration had asked that question, but John Roberts and the four liberals are going to strike it down because they say it wasn't explained clearly enough.

This is a charade. Last year, they pretended it was just about the agency could go back and do it again. They knew full well there wasn't time to do it again; that they had to start the census, and so they got the result they wanted. They didn't like, as a policy matter, asking this. There was no legal reason, no legal authority to strike it down, so they played a little game: Go back and start over. Of course, now we are doing the census without asking that question.

That is the same game here today in DACA. They don't like the policy so

they say: Just go back and do it over. Just give a little more explanation. Just start over. Everyone knows the game they are playing. They are hoping that in November, in the election, that there is a different result in the election; that there is a new administration that comes in that decides amnesty is a good thing, and so this sleight of hand is all about playing policy.

Five Justices today held that it was illegal for the Trump administration to stop breaking the law. That is bizarre. The reasoning is because the Obama administration violated Federal immigration laws, for now—wink, wink, let's pretend, because that is what they are doing, is pretending—Trump has to continue violating the law and behaving illegally.

Chief Justice Roberts knows exactly what he is doing. We saw earlier this week a decision rewriting title VII of our civil rights laws—rewriting title VII, the prohibition on sex discrimination, on discrimination against women or against men, rewriting it to add "sexual orientation or gender identity."

Now, as a policy matter, there are a lot of people who support that. Indeed, legislation to do that has passed the House of Representatives twice. It has passed this body once. But the Court just rewrote it. The Court just engaged in legislation, plain and simple, as Justice Alito powerfully wrote in dissent.

By the way, Chief Justice Roberts, again in the majority, assigned that majority. This is gamesmanship. Chief Justice Roberts knows exactly what he is doing. The fact that elites in Washington don't see a problem with illegal immigration doesn't answer the reality for millions of working men and women who do, and these kinds of games ultimately make a mockery of the rule of law. They make a mockery of the Constitution and Bill of Rights.

It is the same legerdemain we saw Chief Justice Roberts do several years ago upholding *ObamaCare*, where, again, just with a little flip of the wrist, he changed a penalty into a tax. That is not clever; that is lawless.

This decision today was lawless; it was gamesmanship; and it was contrary to the judicial oath that each of the nine Justices has taken.

JUDICIAL NOMINATIONS

Mr. DURBIN. Mr. President, we are in the midst of one of the greatest public health crises in our Nation's history. Over 2 million Americans have been infected by the COVID-19 virus. Over 115,000 Americans have died. Sadly, infections are still trending upward in many States. And what is the response of the Republican majority in the U.S. Senate to this public health crisis? This week, the majority leader, Senator MCCONNELL has scheduled a vote on his family friend and former intern, Justin Walker, to be a judge on the DC Circuit, the second highest court in the land.

Colleagues, let's be honest. You cannot say with a straight face that Justin Walker, a 38-year-old with no practical courtroom experience and a few months' time on the district court bench, is the best person for the job of DC Circuit judge. He is not, and we know it. So why is he getting this nomination? I believe there are two main reasons: because Justin Walker is a protégé of Senator MCCONNELL and because he is an outspoken critic of the Affordable Care Act.

Justin Walker has made clear that he is willing to toe the Republican party line of hostility to Obamacare. Before he was confirmed as a district judge last October in a party-line vote, he called the NFIB case that upheld the ACA's constitutionality an "indefensible decision." And in March, while he was a sitting judge, he cracked jokes about his opposition to the ACA at his ceremonial investiture.

These comments apparently put him on the fast-track for a promotion to the DC Circuit. I find it astonishing that Senate Republicans have rubberstamped so many nominees who have written articles or spoken publicly about their hostility to the ACA, nominees like John Bush, Steven Grasz, James Ho, David Porter, Neomi Rao, Mark Norris, Michael Truncale, and Sarah Pitlyk, not to mention Chad Readler, who filed the brief for the *Trump v. U.S.* case that called for striking down the entire ACA, including its protections for Americans with preexisting conditions. Chad Readler was nominated to the 6th Circuit within a day of filing that brief.

It is a pattern. And right after the vote on Justin Walker, Senator MCCONNELL wants to vote on yet another nominee with a record of outspoken hostility to the ACA; 5th Circuit nominee Cory Wilson of Mississippi has repeatedly spoken, written, and tweeted criticisms of the ACA. In one of Wilson's newspaper columns, he wrote "for the sake of the Constitution, I hope the Court strikes down the law." In another column, he described the ACA as "big, intrusive government" and as "perverse" and "illegitimate." And he has tweeted negatively about the ACA more than 30 times.

Justin Walker's and Cory Wilson's public statements clearly show that they have already made up their minds about the Affordable Care Act's merits and its constitutionality. And yet, they have been unwilling to recuse themselves from ACA cases that might come before them if they are confirmed. This is important because the ACA has been under constant attack in the Federal courts. The Republican Party, from President Trump on down, has been obsessed with trying to get the ACA struck down as unconstitutional. There is a case pending before the Supreme Court right now where Republican officeholders and the Trump administration are trying to strike down the entire ACA. That

would strip away health insurance and preexisting condition protections for millions of Americans. Even in the middle of a pandemic, the Republican Party is not stopping its attack on the Affordable Care Act.

They failed to overturn the ACA in Congress, of course. But clearly, Republicans are determined to attack it through the courts, no matter how many Americans might lose their coverage and protections. Make no mistake, the nominations of Justin Walker and Cory Wilson are part of the Republican assault on the Affordable Care Act. And the American people are watching.

I oppose these nominees.

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to the nomination of Justin Walker to the DC Circuit. There are four main reasons for my opposition, and I would like to address each.

First, Judge Walker does not have the experience we would expect of a nominee to the DC Circuit, which is considered the second most powerful court in the Nation.

Judge Walker was confirmed to the Western District of Kentucky on October 24, 2019. He has just 7 months of experience as a sitting Federal district court judge.

Moreover, as Judge Walker disclosed in the questionnaire he submitted to the Judiciary Committee, in those 7 months he has presided over no bench or jury trials.

Although appellate judges don't preside over jury selection, sentencing, or decisions on the admissibility of evidence, they are regularly called upon to examine the decisions of district court judges on these and other matters.

In light of that, Judge Walker's lack of trial experience should alone be a bar to his elevation to the circuit.

Second, I have serious concerns about Judge Walker's views on Executive power and agency independence.

Questions around these issues frequently come before the DC Circuit, and so Judge Walker's views are highly relevant to his nomination.

Judge Walker has argued against the independence of the Federal Bureau of Investigation, going so far as to claim that the FBI Director should be an "agent" of the President.

These views are troubling in the abstract, but they are even more troubling now, with an administration that too often views the Department of Justice as a political arm of the Presidency.

Judge Walker has also argued that Federal agencies have too much power when it comes to protecting the environment, consumers, and the workplace.

This is an especially troubling viewpoint at a time when we need agencies like the Occupational Safety and Health Administration, commonly known as OSHA, to protect the health and safety of American workers who

have continued working during the COVID-19 pandemic or will be returning to their jobs.

Judge Walker's views on the ability of federal agencies to protect Americans are particularly relevant to the DC Circuit, which hears critical cases surrounding workplace and environmental safeguards.

Third, Judge Walker has been an ardent opponent of the Affordable Care Act.

He has called the Supreme Court's decision upholding the ACA "indefensible" and "catastrophic." He praised then-Judge Brett Kavanaugh for providing a "roadmap" by which the Court could strike down the ACA.

I simply cannot support a nominee who would put at risk the healthcare of tens of millions of Americans, including those with preexisting conditions who might well lose coverage without the ACA's protections.

Finally, I have concerns that Judge Walker does not have the temperament required of a Federal judge.

In March of this year, when he was formally sworn in to the Western District of Kentucky, Judge Walker made a number of overtly political remarks.

He attacked the American Bar Association, stating that "although we celebrate today, we cannot take for granted tomorrow or we will lose our courts and our country to critics who call us terrifying and who describe us as deplorable."

He said that "in Brett Kavanaugh's America, we will not surrender while you wage war on our work or our cause or our hope or our dream."

These remarks raise questions as to whether Judge Walker can remain impartial and set aside political leanings.

For all of these reasons, I will vote against Judge Walker's nomination, and I urge my colleagues to do the same. Thank you.

Mr. CRUZ. I yield the floor.

The PRESIDING OFFICER. All postcloture time has expired.

The question is, Will the Senate advise and consent to the Walker nomination?

Mr. BARRASSO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senator is necessarily absent: the Senator from Alaska (Mr. SULLIVAN).

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. MANCHIN), the Senator from Massachusetts (Mr. MARKEY), the Senator from Washington (Mrs. MURRAY), the Senator from Nevada (Ms. ROSEN), the Senator from Vermont (Mr. SANDERS), and the Senator from Arizona (Ms. SINEMA) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 42, as follows:

[Rollcall Vote No. 123 Ex.]

YEAS—51

Alexander	Fischer	Paul
Barrasso	Gardner	Perdue
Blackburn	Graham	Portman
Blunt	Grassley	Risch
Boozman	Hawley	Roberts
Braun	Hoeben	Romney
Burr	Hyde-Smith	Rounds
Capito	Inhofe	Rubio
Cassidy	Johnson	Sasse
Cornyn	Kennedy	Scott (FL)
Cotton	Lankford	Scott (SC)
Cramer	Lee	Shelby
Crapo	Loeffler	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young

NAYS—42

Baldwin	Feinstein	Peters
Bennet	Gillibrand	Reed
Blumenthal	Harris	Schatz
Booker	Hassan	Schumer
Brown	Heinrich	Shaheen
Cantwell	Hirono	Smith
Cardin	Jones	Stabenow
Carper	Kaine	Tester
Casey	King	Udall
Collins	Klobuchar	Van Hollen
Coons	Leahy	Warner
Cortez Masto	Menendez	Warren
Duckworth	Merkley	Whitehouse
Durbin	Murphy	Wyden

NOT VOTING—7

Manchin	Rosen	Sullivan
Markey	Sanders	
Murray	Sinema	

The nomination was confirmed.

The PRESIDING OFFICER. The majority leader.

Mr. McCONNELL. I ask unanimous consent that with respect to the Walker nomination, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. McCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion is agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 717.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion is agreed to.

The clerk will report the nomination.

The legislative clerk read nomination of Cory T. Wilson, of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

CLOTURE MOTION

Mr. McCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Cory T. Wilson, of Mississippi, to be United States Circuit Judge for the Fifth Circuit.

Mitch McConnell, Chuck Grassley, Cory Gardner, Lamar Alexander, Richard C. Shelby, Steve Daines, David Perdue, Pat Roberts, Lindsey Graham, Tim Scott, Richard Burr, Mike Crapo, Shelley Moore Capito, John Barrasso, Roger F. Wicker, Cindy Hyde-Smith, John Thune.

Mr. McCONNELL. I ask unanimous consent that the mandatory quorum call be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. McCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion is agreed to.

The Senator from Missouri.

THE JUSTICE ACT

Mr. BLUNT. Mr. President, over the weekend we celebrated Flag Day, when we honor our country's flag as a symbol of unity. It is also a symbol of all of the struggles we have gone through as a nation and the struggles ahead of us.

Harry Truman, whose desk—one of his desks used on the Senate floor—is right here in front of me, once said that Flag Day is also a chance for us to consider what we want the flag to stand for. So I think it is appropriate that we are considering the best way to make sure that the flag stands for all we want it to stand for—and for all of us.

Senator TIM SCOTT has introduced the JUSTICE Act, which would bring us closer to that idea. I was glad to be a cosponsor of the bill. I think this bill has the potential to make a real difference in how we deal with the important and difficult issue of police reform and making sure that our communities are both safe and secure.

You know, you can be safe in the sense that you are not in danger, but people also need to feel secure, meaning they have confidence that they will remain safe and that they will be treated fairly while they are safe.

We need to be sure that all of the people of our country believe that justice can be blind and that it can be dispensed without fear or favor.

Policing, by its very nature, is mostly a local function. There are around 18,000 police departments across the country. Most of the reforms can be made at the local level or the State level.

There are different ways that police systems are structured around the country. There are different levels of law enforcement and how they relate to each other, and I don't think we are

going to do anything effectively in the Congress to impact that, but I think there are some things we can do both in Congress and the administration. I think Senator SCOTT has done a really good job finding what many of those things are and how to make them happen with bipartisan support.

There is a lot in this bill that simply increases transparency and accountability: more reporting so that the Justice Department has an idea of areas where problems seem to arise more frequently and maybe shouldn't; an area of reporting so that a troublesome officer has all of those troubles reported if they have had problems with issues of fairness or constitutional protection; and if that officer is applying at another law enforcement agency, that information should be readily available.

There are two important ways to give people a sense of security. We do that by recognizing that the majority of police in this country are only not a problem, but they do an incredibly hard job, and they do it in an incredible way. It is a job that we have to have. It has to be conscientiously, professionally, and courageously done, and law enforcement officers all over America do it. They get up and do a hard job every day. They run to danger when others run away. It is a hard job.

Frankly, I think the hardest job in America might be the spouse of a law enforcement officer. Law enforcement officers generally have a sense—there are occasions when this isn't the case—but generally have a sense of whether they are in imminent danger or not. The person who cares about them, the person who loves them, wonders all day: What, at this exact moment, is that individual facing, and are they safe?

The problem in policing is there are very few officers and maybe even fewer numbers of police departments where there is a systemic problem. I think if there is a systemic problem in a department, it is hard for that department to solve that problem. Some of Senator SCOTT's legislation helps create the tools they might need to get that done or the tools that we might need, as outside helpers, to say: Here is a department that somebody needs to look at.

His legislation can assure us that for the small group of people in law enforcement who aren't conducting themselves in the way that everybody else in law enforcement does, there is transparency and there is reporting. Things can't be just swept under the rug, and an officer can't go from one department to another without the new department knowing exactly what they are getting.

This legislation sets up more funding to make sure that body cameras are widely available and have to be used if you have them. I think there has been plenty of evidence since 2014, when we had the beginning of the modern body-camera movement, that if you have those cameras on your body and you